



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/673,371 Confirmation No. : 4377
Applicant : Eisuke WAYAMA, et al.
Filed : September 30, 2003
TC/A.U. : 3747
Examiner : T M ARGENBRIGHT
Docket No. : 056207.48275C5
Customer No. : 23911
Title : Throttle Apparatus for an Internal Combustion Engine

REPLY TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed on or about June 8, 2004,
applicants provisionally elect with traverse Claims 1-8.

Reconsideration of the restriction requirement and an action on the merits of all the claims is respectfully requested on grounds that the Office Action does not set forth a prima facie case of independence and/or distinctiveness sufficient to satisfy 35 USC §121 and M.P.E.P. §806.05(d). In particular, the Office Action sets forth no facts to set forth alleged separate useability but merely concludes that "inventions I through V may be used alone." Such a mere conclusion is not adequate to justify the filing of five separate applications.

The inappropriateness of the restriction requirement is made more manifest by the fact that the Office Action acknowledges inventions I through V to be in the same Class (123) and, even more tellingly, inventions II through V

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are in the same Subclass (399). Thus, not even the traditional argument of different classification is available to support the restriction requirement.

Accordingly, an early action on the merits of all claims is earnestly solicited.